

SHB 2071 - S COMM AMD

By Committee on Labor, Commerce, Research & Development

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
4 each reenacted and amended to read as follows:

5 (1) The following are exempt from public inspection and copying:

6 (a) Personal information in any files maintained for students in
7 public schools, patients or clients of public institutions or public
8 health agencies, or welfare recipients.

9 (b) Personal information in files maintained for employees,
10 appointees, or elected officials of any public agency to the extent
11 that disclosure would violate their right to privacy.

12 (c) Information required of any taxpayer in connection with the
13 assessment or collection of any tax if the disclosure of the
14 information to other persons would (i) be prohibited to such persons by
15 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
16 taxpayer's right to privacy or result in unfair competitive
17 disadvantage to the taxpayer.

18 (d) Specific intelligence information and specific investigative
19 records compiled by investigative, law enforcement, and penology
20 agencies, and state agencies vested with the responsibility to
21 discipline members of any profession, the nondisclosure of which is
22 essential to effective law enforcement or for the protection of any
23 person's right to privacy.

24 (e) Information revealing the identity of persons who are witnesses
25 to or victims of crime or who file complaints with investigative, law
26 enforcement, or penology agencies, other than the public disclosure
27 commission, if disclosure would endanger any person's life, physical
28 safety, or property. If at the time a complaint is filed the
29 complainant, victim or witness indicates a desire for disclosure or
30 nondisclosure, such desire shall govern. However, all complaints filed

1 with the public disclosure commission about any elected official or
2 candidate for public office must be made in writing and signed by the
3 complainant under oath.

4 (f) Test questions, scoring keys, and other examination data used
5 to administer a license, employment, or academic examination.

6 (g) Except as provided by chapter 8.26 RCW, the contents of real
7 estate appraisals, made for or by any agency relative to the
8 acquisition or sale of property, until the project or prospective sale
9 is abandoned or until such time as all of the property has been
10 acquired or the property to which the sale appraisal relates is sold,
11 but in no event shall disclosure be denied for more than three years
12 after the appraisal.

13 (h) Valuable formulae, designs, drawings, computer source code or
14 object code, and research data obtained by any agency within five years
15 of the request for disclosure when disclosure would produce private
16 gain and public loss.

17 (i) Preliminary drafts, notes, recommendations, and intra-agency
18 memorandums in which opinions are expressed or policies formulated or
19 recommended except that a specific record shall not be exempt when
20 publicly cited by an agency in connection with any agency action.

21 (j) Records which are relevant to a controversy to which an agency
22 is a party but which records would not be available to another party
23 under the rules of pretrial discovery for causes pending in the
24 superior courts.

25 (k) Records, maps, or other information identifying the location of
26 archaeological sites in order to avoid the looting or depredation of
27 such sites.

28 (l) Any library record, the primary purpose of which is to maintain
29 control of library materials, or to gain access to information, which
30 discloses or could be used to disclose the identity of a library user.

31 (m) Financial information supplied by or on behalf of a person,
32 firm, or corporation for the purpose of qualifying to submit a bid or
33 proposal for (i) a ferry system construction or repair contract as
34 required by RCW 47.60.680 through 47.60.750 or (ii) highway
35 construction or improvement as required by RCW 47.28.070.

36 (n) Railroad company contracts filed prior to July 28, 1991, with
37 the utilities and transportation commission under RCW 81.34.070, except

1 that the summaries of the contracts are open to public inspection and
2 copying as otherwise provided by this chapter.

3 (o) Financial and commercial information and records supplied by
4 private persons pertaining to export services provided pursuant to
5 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
6 export projects pursuant to RCW 43.23.035.

7 (p) Financial disclosures filed by private vocational schools under
8 chapters 28B.85 and 28C.10 RCW.

9 (q) Records filed with the utilities and transportation commission
10 or attorney general under RCW 80.04.095 that a court has determined are
11 confidential under RCW 80.04.095.

12 (r) Financial and commercial information and records supplied by
13 businesses or individuals during application for loans or program
14 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
15 or during application for economic development loans or program
16 services provided by any local agency.

17 (s) Membership lists or lists of members or owners of interests of
18 units in timeshare projects, subdivisions, camping resorts,
19 condominiums, land developments, or common-interest communities
20 affiliated with such projects, regulated by the department of
21 licensing, in the files or possession of the department.

22 (t) All applications for public employment, including the names of
23 applicants, resumes, and other related materials submitted with respect
24 to an applicant.

25 (u) The residential addresses or residential telephone numbers of
26 employees or volunteers of a public agency which are held by any public
27 agency in personnel records, public employment related records, or
28 volunteer rosters, or are included in any mailing list of employees or
29 volunteers of any public agency.

30 (v) The residential addresses and residential telephone numbers of
31 the customers of a public utility contained in the records or lists
32 held by the public utility of which they are customers, except that
33 this information may be released to the division of child support or
34 the agency or firm providing child support enforcement for another
35 state under Title IV-D of the federal social security act, for the
36 establishment, enforcement, or modification of a support order.

37 (w)(i) The federal social security number of individuals governed
38 under chapter 18.130 RCW maintained in the files of the department of

1 health, except this exemption does not apply to requests made directly
2 to the department from federal, state, and local agencies of
3 government, and national and state licensing, credentialing,
4 investigatory, disciplinary, and examination organizations; (ii) the
5 current residential address and current residential telephone number of
6 a health care provider governed under chapter 18.130 RCW maintained in
7 the files of the department, if the provider requests that this
8 information be withheld from public inspection and copying, and
9 provides to the department an accurate alternate or business address
10 and business telephone number. On or after January 1, 1995, the
11 current residential address and residential telephone number of a
12 health care provider governed under RCW 18.130.040 maintained in the
13 files of the department shall automatically be withheld from public
14 inspection and copying unless the provider specifically requests the
15 information be released, and except as provided for under RCW
16 42.17.260(9).

17 (x) Information obtained by the board of pharmacy as provided in
18 RCW 69.45.090.

19 (y) Information obtained by the board of pharmacy or the department
20 of health and its representatives as provided in RCW 69.41.044,
21 69.41.280, and 18.64.420.

22 (z) Financial information, business plans, examination reports, and
23 any information produced or obtained in evaluating or examining a
24 business and industrial development corporation organized or seeking
25 certification under chapter 31.24 RCW.

26 (aa) Financial and commercial information supplied to the state
27 investment board by any person when the information relates to the
28 investment of public trust or retirement funds and when disclosure
29 would result in loss to such funds or in private loss to the providers
30 of this information.

31 (bb) Financial and valuable trade information under RCW 51.36.120.

32 (cc) Client records maintained by an agency that is a domestic
33 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
34 crisis center as defined in RCW 70.125.030.

35 (dd) Information that identifies a person who, while an agency
36 employee: (i) Seeks advice, under an informal process established by
37 the employing agency, in order to ascertain his or her rights in

1 connection with a possible unfair practice under chapter 49.60 RCW
2 against the person; and (ii) requests his or her identity or any
3 identifying information not be disclosed.

4 (ee) Investigative records compiled by an employing agency
5 conducting a current investigation of a possible unfair practice under
6 chapter 49.60 RCW or of a possible violation of other federal, state,
7 or local laws prohibiting discrimination in employment.

8 (ff) Business related information protected from public inspection
9 and copying under RCW 15.86.110.

10 (gg) Financial, commercial, operations, and technical and research
11 information and data submitted to or obtained by the clean Washington
12 center in applications for, or delivery of, program services under
13 chapter 70.95H RCW.

14 (hh) Information and documents created specifically for, and
15 collected and maintained by a quality improvement committee pursuant to
16 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
17 4.24.250, regardless of which agency is in possession of the
18 information and documents.

19 (ii) Personal information in files maintained in a data base
20 created under RCW 43.07.360.

21 (jj) Financial and commercial information requested by the public
22 stadium authority from any person or organization that leases or uses
23 the stadium and exhibition center as defined in RCW 36.102.010.

24 (kk) Names of individuals residing in emergency or transitional
25 housing that are furnished to the department of revenue or a county
26 assessor in order to substantiate a claim for property tax exemption
27 under RCW 84.36.043.

28 (ll) The names, residential addresses, residential telephone
29 numbers, and other individually identifiable records held by an agency
30 in relation to a vanpool, carpool, or other ride-sharing program or
31 service. However, these records may be disclosed to other persons who
32 apply for ride-matching services and who need that information in order
33 to identify potential riders or drivers with whom to share rides.

34 (mm) The personally identifying information of current or former
35 participants or applicants in a paratransit or other transit service
36 operated for the benefit of persons with disabilities or elderly
37 persons.

1 (nn) The personally identifying information of persons who acquire
2 and use transit passes and other fare payment media including, but not
3 limited to, stored value smart cards and magnetic strip cards, except
4 that an agency may disclose this information to a person, employer,
5 educational institution, or other entity that is responsible, in whole
6 or in part, for payment of the cost of acquiring or using a transit
7 pass or other fare payment media, or to the news media when reporting
8 on public transportation or public safety. This information may also
9 be disclosed at the agency's discretion to governmental agencies or
10 groups concerned with public transportation or public safety.

11 (oo) Proprietary financial and commercial information that the
12 submitting entity, with review by the department of health,
13 specifically identifies at the time it is submitted and that is
14 provided to or obtained by the department of health in connection with
15 an application for, or the supervision of, an antitrust exemption
16 sought by the submitting entity under RCW 43.72.310. If a request for
17 such information is received, the submitting entity must be notified of
18 the request. Within ten business days of receipt of the notice, the
19 submitting entity shall provide a written statement of the continuing
20 need for confidentiality, which shall be provided to the requester.
21 Upon receipt of such notice, the department of health shall continue to
22 treat information designated under this section as exempt from
23 disclosure. If the requester initiates an action to compel disclosure
24 under this chapter, the submitting entity must be joined as a party to
25 demonstrate the continuing need for confidentiality.

26 (pp) Records maintained by the board of industrial insurance
27 appeals that are related to appeals of crime victims' compensation
28 claims filed with the board under RCW 7.68.110.

29 (qq) Financial and commercial information supplied by or on behalf
30 of a person, firm, corporation, or entity under chapter 28B.95 RCW
31 relating to the purchase or sale of tuition units and contracts for the
32 purchase of multiple tuition units.

33 (rr) Any records of investigative reports prepared by any state,
34 county, municipal, or other law enforcement agency pertaining to sex
35 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
36 defined in RCW 71.09.020, which have been transferred to the Washington
37 association of sheriffs and police chiefs for permanent electronic
38 retention and retrieval pursuant to RCW 40.14.070(2)(b).

1 (ss) Credit card numbers, debit card numbers, electronic check
2 numbers, card expiration dates, or bank or other financial account
3 numbers, except when disclosure is expressly required by or governed by
4 other law.

5 (tt) Financial information, including but not limited to account
6 numbers and values, and other identification numbers supplied by or on
7 behalf of a person, firm, corporation, limited liability company,
8 partnership, or other entity related to an application for a horse
9 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
10 license, gambling license, or lottery retail license.

11 (uu) Records maintained by the employment security department and
12 subject to chapter 50.13 RCW if provided to another individual or
13 organization for operational, research, or evaluation purposes.

14 (vv) Individually identifiable information received by the work
15 force training and education coordinating board for research or
16 evaluation purposes.

17 (ww) Those portions of records assembled, prepared, or maintained
18 to prevent, mitigate, or respond to criminal terrorist acts, which are
19 acts that significantly disrupt the conduct of government or of the
20 general civilian population of the state or the United States and that
21 manifest an extreme indifference to human life, the public disclosure
22 of which would have a substantial likelihood of threatening public
23 safety, consisting of:

24 (i) Specific and unique vulnerability assessments or specific and
25 unique response or deployment plans, including compiled underlying data
26 collected in preparation of or essential to the assessments, or to the
27 response or deployment plans; and

28 (ii) Records not subject to public disclosure under federal law
29 that are shared by federal or international agencies, and information
30 prepared from national security briefings provided to state or local
31 government officials related to domestic preparedness for acts of
32 terrorism.

33 (xx) Commercial fishing catch data from logbooks required to be
34 provided to the department of fish and wildlife under RCW 77.12.047,
35 when the data identifies specific catch location, timing, or
36 methodology and the release of which would result in unfair competitive
37 disadvantage to the commercial fisher providing the catch data.

1 However, this information may be released to government agencies
2 concerned with the management of fish and wildlife resources.

3 (yy) Sensitive wildlife data obtained by the department of fish and
4 wildlife. However, sensitive wildlife data may be released to
5 government agencies concerned with the management of fish and wildlife
6 resources. Sensitive wildlife data includes:

7 (i) The nesting sites or specific locations of endangered species
8 designated under RCW 77.12.020, or threatened or sensitive species
9 classified by rule of the department of fish and wildlife;

10 (ii) Radio frequencies used in, or locational data generated by,
11 telemetry studies; or

12 (iii) Other location data that could compromise the viability of a
13 specific fish or wildlife population, and where at least one of the
14 following criteria are met:

15 (A) The species has a known commercial or black market value;

16 (B) There is a history of malicious take of that species; or

17 (C) There is a known demand to visit, take, or disturb, and the
18 species behavior or ecology renders it especially vulnerable or the
19 species has an extremely limited distribution and concentration.

20 (zz) The personally identifying information of persons who acquire
21 recreational licenses under RCW 77.32.010 or commercial licenses under
22 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
23 department, and type of license, endorsement, or tag. However, the
24 department of fish and wildlife may disclose personally identifying
25 information to:

26 (i) Government agencies concerned with the management of fish and
27 wildlife resources;

28 (ii) The department of social and health services, child support
29 division, and to the department of licensing in order to implement RCW
30 77.32.014 and 46.20.291; and

31 (iii) Law enforcement agencies for the purpose of firearm
32 possession enforcement under RCW 9.41.040.

33 (aaa)(i) Discharge papers of a veteran of the armed forces of the
34 United States filed at the office of the county auditor before July 1,
35 2002, that have not been commingled with other recorded documents.
36 These records will be available only to the veteran, the veteran's next
37 of kin, a deceased veteran's properly appointed personal representative

1 or executor, a person holding that veteran's general power of attorney,
2 or to anyone else designated in writing by that veteran to receive the
3 records.

4 (ii) Discharge papers of a veteran of the armed forces of the
5 United States filed at the office of the county auditor before July 1,
6 2002, that have been commingled with other records, if the veteran has
7 recorded a "request for exemption from public disclosure of discharge
8 papers" with the county auditor. If such a request has been recorded,
9 these records may be released only to the veteran filing the papers,
10 the veteran's next of kin, a deceased veteran's properly appointed
11 personal representative or executor, a person holding the veteran's
12 general power of attorney, or anyone else designated in writing by the
13 veteran to receive the records.

14 (iii) Discharge papers of a veteran filed at the office of the
15 county auditor after June 30, 2002, are not public records, but will be
16 available only to the veteran, the veteran's next of kin, a deceased
17 veteran's properly appointed personal representative or executor, a
18 person holding the veteran's general power of attorney, or anyone else
19 designated in writing by the veteran to receive the records.

20 (iv) For the purposes of this subsection (1)(aaa), next of kin of
21 deceased veterans have the same rights to full access to the record.
22 Next of kin are the veteran's widow or widower who has not remarried,
23 son, daughter, father, mother, brother, and sister.

24 (bbb) Those portions of records containing specific and unique
25 vulnerability assessments or specific and unique emergency and escape
26 response plans at a city, county, or state adult or juvenile
27 correctional facility, the public disclosure of which would have a
28 substantial likelihood of threatening the security of a city, county,
29 or state adult or juvenile correctional facility or any individual's
30 safety.

31 (ccc) Information compiled by school districts or schools in the
32 development of their comprehensive safe school plans pursuant to RCW
33 28A.320.125, to the extent that they identify specific vulnerabilities
34 of school districts and each individual school.

35 (ddd) Information regarding the infrastructure and security of
36 computer and telecommunications networks, consisting of security
37 passwords, security access codes and programs, access codes for secure

1 software applications, security and service recovery plans, security
2 risk assessments, and security test results to the extent that they
3 identify specific system vulnerabilities.

4 (eee) Information obtained and exempted or withheld from public
5 inspection by the health care authority under RCW 41.05.026, whether
6 retained by the authority, transferred to another state purchased
7 health care program by the authority, or transferred by the authority
8 to a technical review committee created to facilitate the development,
9 acquisition, or implementation of state purchased health care under
10 chapter 41.05 RCW.

11 (fff) Proprietary data, trade secrets, or other information that
12 relates to: (i) A vendor's unique methods of conducting business; (ii)
13 data unique to the product or services of the vendor; or (iii)
14 determining prices or rates to be charged for services, submitted by
15 any vendor to the department of social and health services for purposes
16 of the development, acquisition, or implementation of state purchased
17 health care as defined in RCW 41.05.011.

18 (2) Except for information described in subsection (1)(c)(i) of
19 this section and confidential income data exempted from public
20 inspection pursuant to RCW 84.40.020, the exemptions of this section
21 are inapplicable to the extent that information, the disclosure of
22 which would violate personal privacy or vital governmental interests,
23 can be deleted from the specific records sought. No exemption may be
24 construed to permit the nondisclosure of statistical information not
25 descriptive of any readily identifiable person or persons.

26 (3) Inspection or copying of any specific records exempt under the
27 provisions of this section may be permitted if the superior court in
28 the county in which the record is maintained finds, after a hearing
29 with notice thereof to every person in interest and the agency, that
30 the exemption of such records is clearly unnecessary to protect any
31 individual's right of privacy or any vital governmental function.

32 (4) Agency responses refusing, in whole or in part, inspection of
33 any public record shall include a statement of the specific exemption
34 authorizing the withholding of the record (or part) and a brief
35 explanation of how the exemption applies to the record withheld.

36 NEW SECTION. **Sec. 2.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 immediately."

SHB 2071 - S COMM AMD

By Committee on Labor, Commerce, Research & Development

4 On page 1, line 2 of the title, after "inspection;" strike the
5 remainder of the title and insert "reenacting and amending RCW
6 42.17.310; and declaring an emergency."

--- END ---